in section 13(a)(14). The exemption would also apply in any workweek in which the employee, who grew and harvested shade-grown tobacco, is exclusively engaged in such processing.

(b) An employee so employed in any workweek is considered to be excluded from the "employee employed in agriculture" whose exemption from the pay provisions of the Act is governed by section 13(a)(6). Therefore, his mandays of exempt labor under section 13(a)(14) in any such workweek are not to be counted as man-days of agricultural labor within the meaning of section 3(u) of the Act and to which section 13(a)(6) refers.

(c) However, since section 3(u) defines man-day to mean "any day during which an employee performs any agricultural labor for not less than 1 hour" in the case of an employee who qualifies for the exemption in some workweeks but not in others under section 13(a)(14), all such man-days of his agricultural labor in the workweeks when he is not exempt under section 13(a)(14) will be counted. In this connection, the performance of some agricultural work which does not relate to shade-grown tobacco by an agricultural employee of a grower of such tobacco will not be considered as the performance of nonexempt work outside the section 13(a)(14) exemption in any workweek in which such an employee is employed by such an employer in the growing and harvesting of such tobacco or in its processing prior to stemming, or both, and engages in other agricultural work only incidentally or to an insubstantial extent.

§ 780.509 Agriculture.

The definition of "agriculture," as contained in section 3(f) of the Act, is discussed in subpart B of this part 780. The principles there discussed should be referred to as guides to the meaning of the terms "agricultural employee" and "growing and harvesting" as used in section 13(a)(14).

§ 780.510 "Any agricultural employee."

The section 13(a)(14) exemption applies to "any agricultural employee" who is employed in the specified activities. The term "any agricultural employee" includes not only agricultural employees of the tobacco grower but also such employees of other farmers or independent contractors. "Any agricultural employee" employed in the growing and harvesting of shade-grown tobacco will qualify for exemption if he engages in the specified processing operations. The use of the word "agricultural" before "employee" makes it apparent that separate consideration must be given to whether an employee is an "agricultural employee" and to whether he is employed in the specified "growing and harvesting" within the meaning of the Act.

§ 780.511 Meaning of "agricultural employee."

An "agricultural employee," for purposes of section 13(a)(14), may be defined as an employee employed in activities which are included in the definition of "agriculture" in section 3(f) of the Act (see § 780.103), and who is employed in these activities with sufficient regularity or continuity to characterize him as a person who engages in them as an occupation. Isolated or sporadic instances of engagement by an employee in activities defined as "agriculture" would not ordinarily establish that he is an "agricultural employee." His engagement in agriculture should be sufficiently substantial to demonstrate some dedication to agricultural work as a means of livelihood.

§ 780.512 "Employed in the growing and harvesting."

Section 13(a)(14) exempts processing operations on shade-grown tobacco only when performed by agricultural employees "employed in the growing and harvesting" of such tobacco. The use of the term "and" in the phrase "growing and harvesting" may be in recognition of the fact that in the raising of shade-grown tobacco the two operations are typically intermingled; however, it is not considered that the word "and" would preclude a determination on the particular facts that an employee is qualified for the exemption if he is employed only in "growing" or only in "harvesting." Employment in work other than growing and harvesting of shade-grown tobacco will not satisfy the requirement that the employee be employed in growing and

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